

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SMA IRREVOCABLE TRUST,)
)
Plaintiff,)
)
vs.) Case No.: 4:11-cv-00697 ERW
)
R. CAPITAL ADVISORS, LLC, *et al.*,)
)
Defendants.)

AARON B. GREENSPAN, *et al.*,)
)
Plaintiffs,)
)
vs.) Case No.: 4:11-cv-01940 FRB
)
R. CAPITAL ADVISORS, LLC, *et al.*,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter comes before the Court on Defendant Timothy M. O'Leary's Motion to Consolidate. ECF No. 30. O'Leary moves to consolidate *SMA Irrevocable Trust*, case no. 4:11-cv-00697 ERW, with *Greenspan*, case no. 4:11-cv-01940 FRB.

O'Leary argues consolidation of the two above styled cases is warranted because they are nearly identical in all material respects. First, in each case the plaintiffs made investments with R. Capital Advisors, LLC. Next, in each case the plaintiffs allege 24 identical causes of action. Finally, in each case the plaintiffs have named as defendants O'Leary, R. Capital Advisors, LLC, and Gary R. Vibbard. SMA Irrevocable Trust, the sole remaining plaintiff in case no. 4:11-cv-00697 ERW, consents to consolidation. ECF No. 39. O'Leary has filed notice of his Motion to Consolidate in *Greenspan*. See No. 4:11-cv-01940 FRB, ECF No. 9.

“If actions before the court involve a common question of law or fact, the court may . . . consolidate the actions[.]” Fed. R. Civ. Pro. 42(a)(2). “Consolidation is inappropriate, however, if it leads to inefficiency, inconvenience, or unfair prejudice to a party.” *EEOC v. HBE Corp.*, 135 F.3d 543, 551 (8th Cir. 1998). Local Rule 42-4.03 sets forth the procedural requirements for filing a motion to consolidate. E.D.Mo. L.R. 42-4.03.

Given the similarity of the parties and allegations, the Court finds the two above styled cases involve common questions of law and fact. SMA Irrevocable Trust consents to consolidation, and there is nothing to suggest that consolidation will cause any inefficiency, inconvenience, or unfair prejudice. Finally, O’Leary filed the instant Motion in compliance with the Court’s Local Rules. O’Leary’s Motion to Consolidate will be granted.

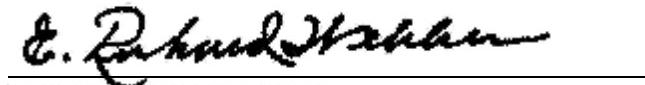
Accordingly,

IT IS HEREBY ORDERED that Defendant Timothy M. O’Leary’s Motion to Consolidate, ECF No. 30, is **GRANTED**.

IT IS FURTHER ORDERED that *SMA Irrevocable Trust*, case no. 4:11-cv-00697 ERW, shall be consolidated with *Greenspan*, case no. 4:11-cv-01940 FRB. Future filings shall be made only in case no. 4:11-cv-00697 ERW. All future filings shall bear the following consolidated caption: “*SMA Irrevocable Trust v. R. Capital Advisors, LLC, et al.*, Case No. 4:11-cv-00697 ERW [consolidated with 4:11-cv-01940 FRB].”

IT IS FURTHER ORDERED that the Clerk’s Office shall administratively close *Greenspan*, case no. 4:11-cv-01940 FRB.

Dated this 16th day of February, 2012.


E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE